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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,189	12/27/2000	Edward L. Tobinick	TOBINICK 3.0-012(CIP)	6172
7590 EZRA SUTTON, P.A. Plaza 9 900 Route 9 Woodbridge, NJ 07095			EXAMINER CHANNAVAJALA, LAKSHMI SARADA	
			ART UNIT 1615	PAPER NUMBER
			MAIL DATE 06/10/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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Woodbridge NJ 07095

In re Application of: EDWARD L. TOBINICK  
Serial No.: 09/749,189  
Filed: December 27, 2000  
Docket: TOBINICK 3.0-012(CIP)  
Title: **CYTOKINE ANTAGONISTS FOR THE  
TREATMENT OF SENSORINEURAL  
HEARING LOSS**

DECISION ON PETITION TO  
MAKE SPECIAL FOR NEW  
APPLICATION UNDER 37  
C.F.R. § 1.102 & M.P.E.P. §  
708.02

This is a decision on the petition filed on December 27, 2000 to make the above-identified application special under 37 C.F.R. § 1.102(d).

The petition to make special appears to be based on the provisions of MPEP §708.02 I. Manufacture.

The requirements as set forth in MPEP §708.02 I are:

An application may be made special on the ground of prospective manufacture upon the filing of a petition accompanied by the fee under 37 CFR 1.17(h) and a statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;

(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;

(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition does not specifically address each of the requirements set forth in (A)-(D) above.

The above notwithstanding the instant petition was forwarded to the Technology Center April 17, 2010 for consideration. It is noted that the instant application matured to US 6,423,321 on July 23, 2002. That the instant application matured into a patent prior to the instant petition being considered makes the instant petition moot.

### DECISION

For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Michael P Woodward, Quality Assurance Specialist, at (571) 272-8373.

/MP Woodward/  
Michael P Woodward, Quality Assurance Specialist  
Technology Center 1600